

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FIFTEENTH LEGISLATURE

**SECOND SPECIAL SESSION**  
December 12, 1991 to January 7, 1992

**SECOND REGULAR SESSION**  
January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
NON-EMERGENCY LAWS IS  
JUNE 30, 1992

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1992

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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appeal will be taken to Superior Court. If no appeal is taken within 30 days of the date of issuance of the commission award, the State Claims Commission shall promptly notify the Department of Transportation. The Department of Transportation shall, within 60 days from the date of issuance of the commission award, pay the awarded amount to the party or parties named in the award.

**Sec. 3. 23 MRSA §156, 5th ¶** is repealed and the following enacted in its place:

Service as required by this section must be made in the manner prescribed by Rule 5 of the Maine Rules of Civil Procedure.

**Sec. 4. 23 MRSA §156, 6th ¶**, as amended by PL 1987, c. 395, Pt. A, §98, is further amended to read:

Upon certification by the Department of Transportation that after due diligence the address of owners of record ~~cannot~~ can not be determined or ~~where when~~ when the commission's State Claims Commission notice by registered or certified mail is returned to the commission unclaimed or unknown or where personal service ~~cannot~~ can not be made, the chairman ~~chair~~ of the commission may order service by publication. ~~The chairman of the commission may appoint a guardian ad litem to protect the interests and rights of any minor or incompetent persons notified under this section and determine and set reasonable compensation to be paid to that guardian ad litem. This compensation shall be paid by the Department of Transportation.~~ Notice of the time and place of the review and hearing ~~shall must~~ must be published once a week for ~~3 successive weeks~~ 3 successive weeks in a newspaper of general circulation in the county in which the subject property is located. ~~The last of these notices shall be published no later than 7 days prior to the hearing.~~ The commission shall then proceed with the hearing as in other cases and the appeal provisions ~~shall must~~ must be available to the Department of Transportation and the record owner or owners, or any one of them, who appears and makes application for appeal pursuant to section 157.

**Sec. 5. 23 MRSA §156**, as amended by PL 1987, c. 395, Pt. A, §98, is further amended by adding after the 6th paragraph a new paragraph to read:

The chair of the State Claims Commission may appoint a guardian ad litem to protect the interest and rights of any minor or incompetent persons notified under this section and determine and set reasonable compensation for that guardian ad litem. This compensation must be paid by the Department of Transportation.

**Sec. 6. 23 MRSA §156, next to last ¶**, as amended by PL 1987, c. 395, Pt. A, §98, is further amended to read:

After the appeal period from the decree of the State Claims Commission or a judgment of any court has

expired, any sum of money directed by a decree of the commission or by a judgment of any court to be paid over, ~~which that~~ remains unclaimed for 60 days, ~~shall~~ must be disposed of consistent with Title 33, chapter ~~27~~ 37.

**Sec. 7. 23 MRSA §156, last ¶**, as enacted by PL 1979, c. 487, §5, is amended to read:

Notwithstanding Title 1, section 302, this section ~~shall apply applies~~ to all actions and proceedings pending on the effective date of this Act September 14, 1979.

**Sec. 8. 23 MRSA §157, first ¶**, as amended by PL 1987, c. 395, Pt. A, §99, is repealed and the following enacted in its place:

The Department of Transportation or any party or parties aggrieved by an award by the State Claims Commission may appeal to the Superior Court in the county where the land is situated within 30 days from the date the award was forwarded by the commission. This appeal is de novo and is taken by filing a complaint setting forth substantially the facts upon which the case will be tried like other civil cases.

**Sec. 9. 23 MRSA §157, 4th ¶**, as amended by PL 1987, c. 395, Pt. A, §99, is further amended to read:

If either the owner or owners of record or the department appeal and the just compensation finally awarded, exclusive of interest, is not less than the gross damage determined by the State Claims Commission, exclusive of any interest allowed, then the court shall give judgment to the owner or owners for the amount in which the final award is in excess of the ~~money deposited in court, plus the amount paid the owner or owners; exclusive of any interest awarded by the State Claims Commission;~~ and for interest on such excess from the date of taking and for costs from the time of appeal. ~~No interest may be allowed on so much of any award as has been paid into court or on any amount paid to the owner or owners.~~ The clerk shall certify the final judgment of the court to the department, which shall enter the same of record; and order the same to be paid by the Treasurer of State. The judgment and certificate of judgment shall specify the withholding, if any, authorized pursuant to section 244-A, subsection 4.

**Sec. 10. 23 MRSA §158**, as amended by PL 1987, c. 395, Pt. A, §100, is repealed.

See title page for effective date.

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## CHAPTER 685

### H.P. 1450 - L.D. 2062

#### An Act to Allow Transfer of Commercial Moorings

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §3, 2nd ¶**, as repealed and replaced by PL 1987, c. 655, §3, is amended to read:

Mooring Unless permitted by an ordinance adopted under section 3-A, mooring assignments shall may not be transferred. Assignments shall may not be rented unless the provision for rental was part of the agreement when the mooring was assigned.

**Sec. 2. 38 MRSA §3-A** is enacted to read:

**§3-A. Mooring transfer permitted by ordinance**

A municipality may adopt an ordinance that allows the transfer of a mooring assignment used for commercial fishing purposes. The ordinance may permit a mooring assignment to be transferred only at the request or death of the assignee, only to a member of assignee's family and only if mooring assignment will continue to be used for commercial fishing purposes. For the purposes of this subsection, "member of the assignee's family" means an assignee's parent, child or sibling, by birth or by adoption, including a relation of the half blood.

See title page for effective date.

## CHAPTER 686

**H.P. 1549 - L.D. 2187**

### An Act to Permit Pari-mutuel Pools

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 8 MRSA §274, sub-§1-A** is enacted to read:

1-A. Common pari-mutuel pools; simulcast races. Pursuant to sections 268 and 274-A, a licensee may sell common pari-mutuel pools for simulcast races held at racetracks outside the State. The sale of common pari-mutuel pools must be conducted within the enclosure of the licensee's racetrack or the licensee's off-track betting facility, or by an entity that is conducting a race simulcasted from the licensee. The commission for the sale of common pari-mutuel pools may not exceed the amount established by the law of the state in which the race is held. The licensee shall also pay the amounts established by subsections 2 and 3. In the event of a minus pool the licensee shall pay the amount established by the law of the state in which the race is held.

**Sec. 2. 8 MRSA §274-A, sub-§6**, as enacted by PL 1991, c. 579, §11, is amended to read:

**6. Operation of facility.** An off-track betting licensee may not permit a person under the age of 16 to enter the facility unless accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002. The off-track betting licensee may not permit any person under the age of 16 18 within 15 feet of any betting window or other place for accepting wagers.

See title page for effective date.

## CHAPTER 687

**H.P. 1588 - L.D. 2242**

### An Act to Clarify the Subdivision Definition under Maine Land Use Regulation Commission Laws

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 12 MRSA §682, sub-§2**, as amended by PL 1991, c. 306, is repealed and the following enacted in its place:

2. Subdivision. "Subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, or by sale of the land by metes and bounds or by leasing. A division accomplished by gift to a person related to the donor by blood, marriage or adoption, unless the intent of that gift is to avoid the objectives of this chapter, does not create a lot or lots for purposes of this definition.

The term "subdivision" also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5-year period.

A lot or parcel is not counted as a lot for the purposes of this subsection if it qualifies under all of the following criteria:

- A. The lot is at least 40 acres in size;
- B. No portion of the lot is located within 1,320 feet of the normal high water line of any great pond or river or within 250 feet of the upland edge of a coastal or freshwater wetland as defined in Title 38, section 436-A;
- C. The original parcel from which the lot was divided is divided into an aggregate of no more than 10 lots within any 5-year period; and
- D. When 3 to 10 lots of at least 40 acres in size are created within any 5-year period, a plan is recorded